IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 91 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

M/s. NANALAL MANSUKHRAM

Appearance:

MR BB NAYAK FOR MR MANISH R BHATT for Applicant.

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 09/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income Tax Appellate Tribunal, Ahmedabad Bench "A" has referred the following question for the opinion of this Court at the instance of the revenue :

"Whether the Tribunal was right in law and on facts in allowing a deduction of Rs.18,522/- on account of interest ?"

2 We have heard Mr.B.B.Nayak, learned Counsel for the revenue. Though served none appears for the respondent-assessee. The assessment year is 1982-83. The assessee claimed deduction on account of Rs.18,522/being interest paid on various charity accounts known as "Subh Accounts" maintained in its books of accounts. The Tribunal has followed its own decision for assessment years 1980-81 and 1981-82, against which revenue had come in reference before this Court.

3 In assessee's own case for the earlier two assessment years in Income Tax Reference No.76 of 1987 by decision dated 28/08/2001, we have held that disallowance of interest paid on the amount received from various parties other than partners of the firm was not justified. Following the said decision we hold that the Tribunal was right in law in holding that the amount of Rs.18,522/- paid on account of interest during the relevant accounting period was a deductible item of expenditure. The question referred to us is therefore answered in the affirmative i.e. in favour of the assessee and against the revenue.

4 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt